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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/692,422 | 10/23/2003 | Douglas Thai | PAT-1336CIP-CON | 8371 |

7590 01/03/2008
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| EXAMINER |
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HYLTON, ROBIN ANNETTE

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| ART UNIT | PAPER NUMBER |
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3781

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01/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/692,422

Applicant(s)

THAI, DOUGLAS

Examiner

Robin A. Hylton

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22,23,25-29,31 and 33-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22,23 and 25-29 is/are allowed.
- 6) ☒ Claim(s) 31 and 33-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 30, 2007 has been entered.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 31 and 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little Kids Original No-Spill® Bubble Tumbler®.

The Little Kids container discloses a container body having an inner chamber, a bottom wall, a top wall, an opening provided in the top wall, a tube extending from the opening into the inner chamber to provide communication between the inner chamber and the exterior of the container body, with the container body including bubble solution therein; and the container body including a lower body that receives liquid therein and having the bottom wall and an open upper mouth; and an upper body having the top wall and an open lower mouth, the upper body being removably connected to the lower body with the open mouths thereof in communication with each other to form the inner chamber. The Little Kids container is silent regarding a plurality of openings, downwardly extending tubes and wands.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional and duplicate opening, tube extending therefrom and a wand inserted therein, since it has been held that mere duplication of the essential

working parts of a device involves only routine skill in the art. Doing so allows at least two children to simultaneously use the non-spill container, interact, and blow bubbles without having to take turns.

4. Claim 31 and 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patterson (US 5,105,975) in view of Lin (US 6,132,125).

Patterson discloses a container comprising a container body (10) having an inner chamber, a bottom wall (16), a top wall (32), an opening (34) provided in the top wall, and a tube (42) extending from the opening into the inner chamber to provide communication between the inner chamber and the exterior of the container body, wherein the container body includes a lower body (12) that receives liquid therein and having the bottom wall and an open upper mouth and an upper body (14) having the top wall and an open lower mouth, the upper body being removably connected to the lower body with the open mouths thereof in communication with each other to form the inner chamber. Patterson does not teach the container body including bubble solution therein and a stopper positioned inside the tube, the stopper having a shaft having a first end and a second end, with a serrated ring provided at the first end and a support section provided at the second end. Patterson does not teach two openings with a wand within each.

Lin teaches a container having tube (11') extending through an opening, the tube having bubble solution therein and a stopper positioned inside thereof, the stopper having a shaft (32') having a first end and a second end, with a serrated ring (33') provided at the first end and a support section provided at the second end, wherein a lining (311') is provided around a portion of the support section and is received inside the tube.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the container of Patterson as a bubble solution container by applying the teaching of bubble solution in the container inner chamber and utilizing a stopper as taught by Lin to the container of Patterson. Doing so is an alternative use of the container and provides a non-spill bubble container for children's entertainment.

Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional and duplicate opening, tube extending downwardly therefrom and a wand inserted therein, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Doing so allows at least two children to simultaneously use the non-spill container, interact, and blow bubbles without having to take turns.

Allowable Subject Matter

5. Claims 22, 23, and 25-29 are allowed over the art of record.

Response to Arguments

6. Applicant's arguments filed October 30, 2007 have been fully considered but they are not persuasive.

The Little Kids Original No-Spill® Bubble Tumbler® was introduced in 1993 (see the press release) and received two (2) awards that year (see listing of awards).

Applicant refers to the listing of awards as evidence that the Little Kids Original No-Spill® Bubble Tumbler® was copyrighted in 2004. However, that is incorrect. The listing of awards is in chronological descending order. The name of the particular bubble toy is listed at the top of the corresponding award listing and adjacent the most recent award. This does not indicate the year of copyright. The Little Kids Original No-Spill® Bubble Tumbler® is applicable prior art.

Regarding the rejection in view of Patterson and Lin, applicant argues duplication of parts is not applicable since the container would be more apt to spillage. However, the container is a non-spill container. Adding another opening with a straw (as disclosed) therein would simply allow two people to drink simultaneously with separate straws. By design, the container would still be a non-spill container.

The use of the cup as a bubble solution holder and a bubble toy is feasible since the container of Patterson can be used to hold any solution including bubble solution. Again, two openings with each having a tube extending therethrough would allow two people to simultaneously utilize the non-spill container for entertainment.

Conclusion

7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, THIS ACTION IS MADE FINAL even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than

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SIX MONTHS from the mailing date of this final action.

8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

10. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

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Date _____

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
January 1, 2008

/Robin A. Hylton/
Robin A. Hylton
Primary Examiner
GAU 3781